

# HOUSE . . . . . No. 2112

By Mr. Wagner of Chicopee, petition of Brian A. Joyce and others for legislation to regulate the excavation of public ways by utility companies. Transportation.

## The Commonwealth of Massachusetts

### PETITION OF:

Brian A. Joyce	Carl M. Sciortino, Jr.
Bradley H. Jones, Jr.	David B. Sullivan
Timothy J. Toomey, Jr.	Patricia A. Haddad
Stephen M. Brewer	Louis L. Kafka
Deborah D. Blumer	Christine E. Canavan
John D. Keenan	Richard T. Moore
Michael E. Festa	Cory Atkins
Bruce E. Tarr	Dianne Wilkerson
John W. Scibak	Patricia D. Jehlen
Joyce A. Spiliotis	Alice K. Wolf
Mary E. Grant	Thomas A. Golden
Scott P. Brown	Anne M. Paulsen
Martha M. Walz	

In the Year Two Thousand and Five.

### AN ACT RELATIVE TO THE REGULATION OF STREET EXCAVATIONS BY UTILITY COMPANIES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

- 1 SECTION 1. Chapter 85 of the General Laws, as so appearing
- 2 in the 2000 Official Edition, is hereby amended by inserting after
- 3 section 10A the following section:
- 4 Section 10B. A corporation that is subject to the provisions of
- 5 chapters 165, 166 or 166A may excavate a public way of a city or
- 6 town in order to accomplish the objects of said corporation, but
- 7 only in accordance with a permit issued by the board or officer

8 having charge of ways in such city or town. Cities and towns may  
9 require the payment of fees for such permits insofar as such fees  
10 are related to the administrative costs incurred by the municipality  
11 in connection with the review and processing of such permits.

12 Upon completion of excavation, the municipality may require  
13 the corporation to restore and repair the affected way to a condi-  
14 tion as good as that which existed prior to such excavation, and  
15 the expense of such work shall be paid by said corporation. Cities  
16 and towns may require the payment of reasonable fees to recover  
17 the municipality's costs associated with the inspection of each  
18 excavation to insure that the affected way is repaired or restored  
19 to a condition as good as that which existed prior to such excava-  
20 tion; provided, however, that the board or officer having charge of  
21 ways in such city or town advises the applicant of the inspection  
22 fee prior to the issuance of the street opening permit. If the corpo-  
23 ration shall fail to complete such restoration or repair within a rea-  
24 sonable time, the municipality may restore and repair the affected  
25 way to such condition as existed prior to excavation, and the  
26 expense shall be paid by the corporation. Notwithstanding the pro-  
27 visions of this section, any municipality, which, as of January 1,  
28 2002, has an established practice of administering an alternative  
29 arrangement with utility companies relative to the repair and  
30 restoration of ways following an excavation of public ways, shall  
31 be authorized to continue to administer such practice as an alter-  
32 native to the practices set forth above; provided further, that any  
33 municipalities that administer an alternative practice must file a  
34 notice of such practice, signed by the municipality's chief execu-  
35 tive officer, with the Department of Telecommunications and  
36 Energy within six months of the effective date of this act.

1 SECTION 2. Section 70 of chapter 164 of the General Laws, as  
2 appearing in the 2000 Official Edition, is hereby amended by  
3 striking out the second sentence.

1 SECTION 3. Said Section 70 of said chapter 164, as so  
2 appearing, is hereby further amended by adding the following two  
3 paragraphs:

4 The gas company may open and dig up the ground in accor-  
5 dance with an excavation permit issued by the board or officer

6 having charge of ways in such city or town. Cities and towns may  
7 require the payment of fees for such permits insofar as such fees  
8 are related to the administrative costs incurred by the municipality  
9 in connection with the review and processing of such permits.

10 Upon completion of excavation, the municipality may require  
11 the corporation to restore and repair the affected way to a condi-  
12 tion as good as that which existed prior to such excavation, and  
13 the expense of such work shall be paid by said corporation. Cities  
14 and towns may require the payment of reasonable fees to recover  
15 the municipality's costs associated with the inspection of each  
16 excavation to insure that the affected way is repaired or restored  
17 to a condition as good as that which existed prior to such excava-  
18 tion; provided, however, that the board or officer having charge of  
19 ways in such city or town advises the applicant of the inspection  
20 fee prior to the issuance of the street opening permit. If the corpo-  
21 ration shall fail to complete such restoration or repair within a rea-  
22 sonable time, the municipality may restore and repair the affected  
23 way to such condition as existed prior to excavation, and the  
24 expense shall be paid by the corporation. Notwithstanding the pro-  
25 visions of this section, any municipality, which, as of January 1,  
26 2002, has an established practice of administering an alternative  
27 arrangement with gas companies relative to the repair and restora-  
28 tion of ways following an excavation of public ways, shall be  
29 authorized to continue to administer such practice as an alterna-  
30 tive to the practices set forth above; provided further, that any  
31 municipalities that administer an alternative practice must file a  
32 notice of such practice, signed by the municipality's chief execu-  
33 tive officer, with the Department of Telecommunications and  
34 Energy within six months of the effective date of this act.

1 SECTION 4. This act shall take effect upon its passage and  
2 shall apply prospectively.